

# **EXHIBIT D**

## VICTORY VERBATIM COURT REPORTING SERVICES

RD/kw

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re: ) Chapter 11  
W. R. GRACE & CO., et al., ) Case No. 01-01139 (JKF)  
Debtors. ) (Jointly Administered)  
Re: Docket No. 13406

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This is the Deposition of DONALD PINCHIN, in the  
above-noted matter, taken at the law offices of Ogilvy  
Renault, 38th Floor, 200 Bay Street, Toronto, Ontario, on  
the 14th day of March, 2007.  
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APPEARANCES:

DANIEL A. SPEIGHTS -- for the Canada Claimants  
Speights & Runyan  
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DOUGLAS E. CAMERON -- for W. R. Grace & Co.  
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JESSICA GLASS -- for the Official Committee  
Kramer Levin Naftalis of Equity Shareholders  
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Also Present:  
Allison Kuntz

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1 presence of...there are no fireproofing samples, so,  
 2 hence, they wouldn't be consistent with Monokote  
 3 MK-3.  
 4 619. Q. And there are no surfacing samples  
 5 that could even arguably be consistent with the  
 6 Grace surfacing material; is that correct?  
 7 A. I don't know enough about the Grace  
 8 surfacing materials. I would tend to doubt it, but  
 9 I don't know the composition. So this texture coat  
 10 in the lobby and exit I conceivably could be. I  
 11 can't do and won't do an analysis, a visual or a  
 12 simple PLM on texture coats.  
 13 620. Q. Okay. And you don't know whether  
 14 the Grace surfacing products, texture coat type  
 15 products had vermiculite?  
 16 A. No, I don't even know that. I don't  
 17 judge on textures.  
 18 621. Q. So, sitting here today, you don't  
 19 know what PLM analysis that you relied upon to issue  
 20 the report in Exhibit number 35; is that correct?  
 21 A. That is correct.  
 22  
 23 --- EXHIBIT NO. 37 : Letter dated March 26, 2003 to  
 24 Toronto District School Board from  
 25 Finchin Environmental

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1 BY MR. CAMERON:  
 2 622. Q. I show you what has been marked as  
 3 Exhibit number 37. I ask if you can identify that  
 4 for the record, please.  
 5 A. A letter of March 26, 2003 to the  
 6 Toronto District School Board regarding 151 Hiawatha  
 7 Road from Finchin Environmental. And it is the  
 8 letter report, as you described, for the Monokote  
 9 identification from this building.  
 10  
 11 --- EXHIBIT NO. 38 : Report prepared by Trevor Harris &  
 12 Associates, undated, re Roden Junior  
 13 Public School  
 14  
 15 BY MR. CAMERON:  
 16 623. Q. I show you what has been marked as  
 17 Exhibit number 38 and ask if you can identify that  
 18 for the record and I will ask you whether this is a  
 19 document that was relied upon for purposes of your  
 20 opinion set forth in Exhibit number 37.  
 21 A. All right. This is a report, once  
 22 again, done by Trevor Harris, not dated, but it is  
 23 consistent with the reports he did in the early  
 24 '80s, but this one doesn't seem to be dated, related  
 25 to Roden Junior Public School. It is the same claim

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1 number as for 151 Hiawatha.  
 2 This is a survey of fireproofing, but it  
 3 does not have even his standard...this report does  
 4 appear to be incomplete. The drawings are cut off  
 5 and there is none of his normal reporting, you know,  
 6 the forms that normally go with it, so this would be  
 7 inadequate or incomplete, insufficient, to draw a  
 8 conclusion about fireproofing.  
 9 624. Q. At least as it is presented to you  
 10 here?  
 11 A. As it is presented to me here, yes.  
 12  
 13 --- EXHIBIT NO. 39 : Bulk analysis report (1991) re Roden  
 14 Junior Public School plus report  
 15 dated April 14, 1992  
 16  
 17 BY MR. CAMERON:  
 18 625. Q. I show you what has been marked as  
 19 Deposition Exhibit number 39. I ask you if you can  
 20 identify that for the record, please.  
 21 A. Yes. This is, again, related...this  
 22 is a bulk analysis report from 1991 dealing with the  
 23 same Roden Public School which is reporting a number  
 24 of products, including a sprayed fireproofing.  
 25 626. Q. This exhibit has two separate

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1 reports; does it not?  
 2 A. Yes. The first one is dated August  
 3 19, 1991, the second is dated April 14th, 1992.  
 4 They both indicate sprayed fireproofing in the  
 5 library, in the west wall and in the mechanical  
 6 room, are all the replacement, the new asbestos free  
 7 fibrous fireproofing.  
 8 Harris's earlier report of '81 had  
 9 recommended removal and it appears they actually did  
 10 accomplish it.  
 11 627. Q. Okay. What samples are the new?  
 12 A. Well, clearly number 2,  
 13 "...Sprayed fireproofing, library, none  
 14 detected..."  
 15 Sprayed fireproofing number 5, and that is in the  
 16 August 19th, 1991 report. And then sample 1 in the  
 17 April 14th, 1992 report. They are all reported as  
 18 fireproofing, they are all fibrous, white and no  
 19 asbestos. So they are clearly new material.  
 20 628. Q. Well, sample number 5 is not  
 21 fibrous; is it?  
 22 A. No, my apologies, sample number 5 is  
 23 not fibrous, it says "cementitious". Sorry, I made  
 24 a logical leap here.  
 25 629. Q. That is okay. And sample number 4

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1 is asbestos-containing spray fireproofing; correct?  
 2 A. Yes. Okay. I should have slowed  
 3 down. I was going too quickly. Sample 4 is a  
 4 fibrous fireproofing with five to ten percent  
 5 asbestos.  
 6 Just let me start at the top. So there is  
 7 spray fireproofing number 2 that is new. Number 5  
 8 would be new, as well. Number 4 would either be an  
 9 original or it would likely be an original  
 10 fireproofing and it does contain asbestos and is  
 11 described as "fibrous".  
 12 So the only asbestos-containing one is  
 13 number 4 and because of the presence of mineral  
 14 wool, it would be inconsistent with the Monokote.  
 15 630. Q. So the lab results that you were  
 16 shown today are not consistent with Monokote;  
 17 correct?  
 18 A. That is correct.  
 19 631. Q. And if those were the only lab  
 20 reports then the report in Exhibit number 37 would  
 21 be in error; is that correct?  
 22 A. That is correct.  
 23  
 24  
 25

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1 incomplete report, again from Trevor Harris &  
 2 Associates to the Toronto Board of Education. There  
 3 is no date on this one, although it is consistent  
 4 with his 1981 reports related to Withrow Avenue  
 5 Junior Public School.  
 6 And, again, it has the same claim number,  
 7 12317 as 25 Bain Avenue, so I am assuming it is the  
 8 same. There are no analytical results in here and  
 9 the drawings are quite incomplete, so I would not or  
 10 could not form an opinion on that report.  
 11  
 12 --- EXHIBIT NO. 42: Bulk Sample analysis report re St.  
 13 Luigi Public School.  
 14  
 15 BY MR. CAMERON:  
 16 634. Q. I am showing you what has been  
 17 marked as Deposition Exhibit number 42. This is a  
 18 document that is in our claim file 12317, but I  
 19 believe it is the same data from one of the ones  
 20 that we just looked at.  
 21 A. This is a report on Perth Street,  
 22 St. Luigi.  
 23 635. Q. Which we went over earlier, which  
 24 was claim number 12313; is that right?  
 25 A. Yes. One of these is in the wrong

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1 --- EXHIBIT NO. 40: Letter dated March 26, 2003 to  
 2 Toronto District School Board from  
 3 Pinchin Environmental  
 4  
 5 BY MR. CAMERON:  
 6 632. Q. I am showing you what has been  
 7 marked as Deposition Exhibit number 40 and ask if  
 8 you can identify that for the record, please.  
 9 A. Yes. This is a letter of March 26,  
 10 2003 to the Toronto District School Board related to  
 11 25 Bain Avenue. It is the report confirming the  
 12 presence of Monokote and it is Grace file 12317.  
 13  
 14 --- EXHIBIT NO. 41: Report prepared by Trevor Harris &  
 15 Associates for Toronto Board of  
 16 Education re Withrow Avenue Junior  
 17 Public School  
 18  
 19 BY MR. CAMERON:  
 20 633. Q. I am showing you what has been  
 21 marked as Deposition Exhibit number 41. I ask if  
 22 you could identify that and ask if this was relied  
 23 upon, in any way, for...as a basis for your opinion  
 24 that is set forth in Exhibit number 40.  
 25 A. All right. This appears to be an

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1 file.  
 2 636. Q. So this does not relate to the  
 3 Junior...  
 4 A. Well, it might if the one in claim  
 5 12313 is incorrect. One of them is incorrect and I  
 6 can't tell you which. So I should identify. We  
 7 have not identified this.  
 8 637. Q. Okay.  
 9 A. This is a bulk analysis from Pinchin  
 10 Associates laboratory; the same two reports as  
 11 referred to in claim 12313. One is dated September  
 12 6, 1991, the other is dated August 19th, 1992 and  
 13 one of these is in the wrong location.  
 14 One of these two documents, either document  
 15 number 34 or document number 42 are inappropriate.  
 16 And unfortunately, I do not know what the address of  
 17 these schools are, so I can't relate it to either 14  
 18 Ruskin or 25 Bain.  
 19 638. Q. Well, your Exhibit number 40 is  
 20 identification of fireproofing from 25 Bain Avenue.  
 21 Does that help you? You just don't know whether  
 22 Withrow Avenue Junior Public is at 25 Bain Avenue;  
 23 is that correct?  
 24 A. That is correct, yes. I don't know  
 25 whether it is Withrow on Bain or Perth on Ruskin. I